

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2357 of 1986

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

SHANTILAL MOTIBHAI PATEL

Versus

DIRECTOR OF PRIMARY AND ADULT EDUCATION

Appearance:

MR NC THAKKAR for Petitioner
Respondent No. 1, 6 served.
MR RM DESAI for Respondent No. 2
M/S PURNANAND & CO for Respondent No. 5

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 13/09/96

ORAL JUDGEMENT

The petitioner, a primary teacher serving under respondent no.6 has, by this petition, claimed that the petitioner is entitled to receive the benefits of pension, gratuity, medical allowance, leave travel concession etc. at par with such benefits admissible for

primary teachers serving under the Government. It is undisputed that the petitioner is servant of respondent No. 6 and that respondent No.6 is a private trust which runs and manages the primary school in which the petitioner herein is serving. The petitioner being a servant of respondent No.6, the petitioner can have a claim for the above referred benefits against respondent No. 6 and it shall be the primary liability of respondent No. 6 to pay such benefits to the petitioner in the event it is decided that the petitioner is entitled to such benefits.

2. In view of the provisions of section 40E of the Bombay Primary Education Act, such disputes are required to be decided by the Tribunal constituted under section 40F of the BOMBAY PRIMARY EDUCATION Act. In above view of the matter, the petition against respondent No. 6 is not maintainable. The petitioner may, however, make an application to the Tribunal constituted under section 40F of the BOMBAY PRIMARY EDUCATION Act.

3. In the premises aforesaid, the petition is dismissed. Rule is discharged. There shall be no order as to costs.

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